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Citation for published version:

Matthews, B 2016, 'Comparing Trends in Convictions and Non-Court Disposals in Scotland', *Scottish Justice Matters*, vol. 4, no. 1. <http://scottishjusticematters.com/wp-content/uploads/Pages-from-SJM_4-1_www_TrendsInConvictionsAndNonCourtDisposals.pdf>

Link:

[Link to publication record in Edinburgh Research Explorer](#)

Document Version:

Publisher's PDF, also known as Version of record

Published In:

Scottish Justice Matters

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scottish justice 'matters

Volume 4 | Number 1 | March 2016

ISSN 2052-7950



REIMAGINING PUNISHMENT AND JUSTICE

COMPARING TRENDS IN CONVICTIONS AND NON-COURT DISPOSALS IN SCOTLAND

Ben Matthews

IN A recent edition of *Scottish Justice Matters*, McVie, Norris and Pillinger (2015) highlighted the decline in crime in Scotland over the last two decades as measured by both police recorded crime statistics and victim survey data. Since 2007, government data shows that there has also been a decline in the rate of conviction in Scotland, mainly as a result of a drop in convictions amongst young people (Matthews 2014). The timing of this decline is interesting as it matches the introduction of the Getting it Right for Every Child framework (GIRFEC) and, more recently, the changes to the system of youth justice in the form of the Whole Systems Approach (WSA).

According to the findings of the Edinburgh Study of Youth Transitions and Crime (McAra and McVie, 2010), such changes should have had the effect of reducing youth offending. Unfortunately, there is no national data that would allow us to test whether young people are less likely to offend now than they were in the past, and so we do not know if this decline in youth convictions really represents less youth crime. One possible issue confounding declines in convictions was the programme of summary justice reform started in 2007 which may merely have steered young people away from the courts and into different kinds of non-court disposals. The aim of this article, therefore, is to explore whether there is likely to have been a real drop in offending or whether people who offend in Scotland are merely being dealt with by a new set of non-court disposals, by comparing trends in convictions with the data we have on the use of non-court disposals. Given the importance of youth crime to declining convictions rates, particular focus will be given to data regarding those of 21 and under.

Out of court but in the system?

In 2007 the Scottish Government launched a programme of summary justice reform (Scottish Government, 2011). This process involved an increased emphasis on the use of out-of-court disposals by police and procurator fiscals. These 'direct measures' were intended to resolve cases without them being sent to court, in order to save the courts time and money on cases that were unlikely to have required a court disposal. We would expect, therefore, that these non-court disposals are likely to have had an impact on the number of convictions imposed by the courts.

The Scottish Government has published figures about the use of non-court disposals since 2009/10 (available online at <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/PubCriminalProceedings>) and by comparing data on convictions with data about the number of non-court disposals served we can get a better understanding as to whether the drop in the number of convictions is offset by more cases ending in non-court disposals. Of course, this cannot definitely

tell us whether *offending* by young people has declined, but it can help to provide some more clarity by ruling out one potential system effect which might have caused the recent decline in convictions in Scotland.

What do the data tell us? Figure One shows a breakdown of the total numbers of direct measures given to all men and women in each year between 2009/10 and 2013/14. The solid lines represent numbers of convictions and the dashed lines show total numbers of police and procurator direct measures (see note below). The figure is split between men and women, using different scales to highlight the trends in the data.

Overall, the picture is mostly one of decline in both convictions and non-court disposals. For men, the figures for the total number of convictions and non-court disposals show overall declines between 2009/10 and 2012/13, but then both rise sharply to 2013/14. For women, there are fewer convictions and non-court disposals, but they also show an overall decline between 2009/10 and 2012/13 with a sharp rise to 2013/14.

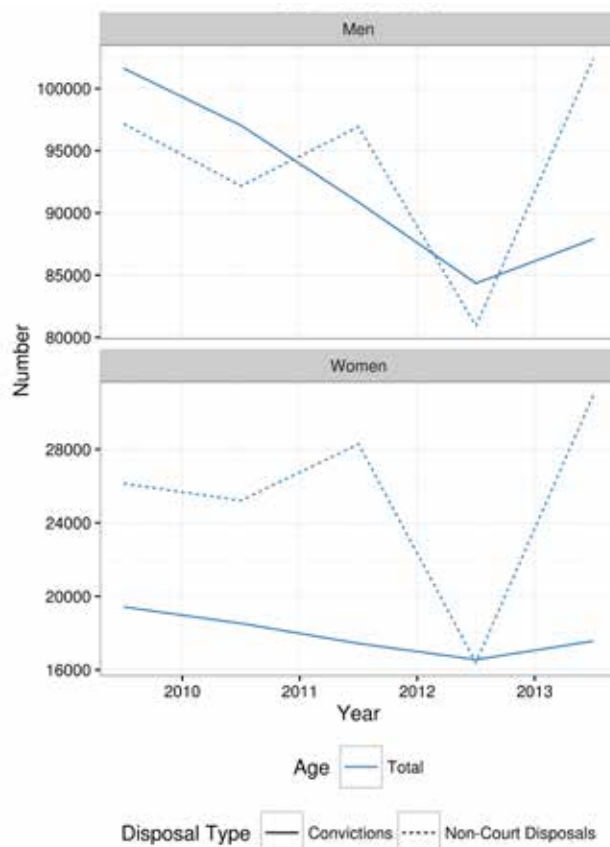


Figure 1: Trends in Convictions and Non-Court Disposals in Scotland, 2009/2010 to 2013/2014

At this stage it is difficult to know what to make of this jump in non-court disposals in 2013/14. The soon-to-be released 2014/15 figures for non-court disposals will help to show whether this increase in 2013/14 is a one-off, or whether it might be something more substantial.

Figure Two shows the same figures split into three age groups. By looking at the two sets of red lines we can see that numbers of non-court disposals and numbers of convictions for those under 21 both show overall declines between 2009/10 and 2013/14, and the rise in non-court disposals between 2012/13 and 2013/14 is much smaller for young people than it is for those aged 21-30 and over 30. There are not only fewer young people being disposed of in courts but also fewer disposals from police and procurator fiscals, and this drop is true for both young men and young women. This is a very different picture than for those of 21 and over. For example, for those over 30 there are increases in both non-court disposals and convictions between 2012/13 and 2013/14, which could suggest that increases in convictions for this group may have been even higher without the introduction of the new non-court disposals.

A real drop in youth crime?

Overall, based on this analysis of non-court disposals I think we can have more faith that declining convictions for young people do not just reflect young people being processed in a different part of the justice system. This is also in line with an interpretation that GIRFEC and WSA have had the desired effect of reducing youth offending. But we need to be very careful when drawing conclusions about offending from these data, as there may be other factors at play that are affecting whether cases come to the procurator fiscal or are reported to the police, or indeed affect whether and how young people become involved in offending.

However, this analysis helps to rule out one source of bias that could come from relying on convictions data alone when trying to understand changes in youth crime in Scotland. While the discussion here has focused on young people and the positive news of declining numbers of convictions and non-court disposals, we should not ignore the worrying increase in the numbers of disposals for those 21 and over, as shown in Figure Two. This divergence in the numbers of young people and older people involved with the justice system emphasises the complexity of the crime drop in Scotland, and highlights the benefit of making use of the multiple sources of data we have to look beyond the headline figures.

Note: These figures are for Anti-Social Behaviour Fixed Penalty Notices (ASBFPNs), Formal Adult Warnings (FAWs), Procurator Fines and Procurator Fixed Penalties. These are the only figures provided broken down by age. This excludes Fiscal combined fine and compensation orders, Fiscal compensation and some types of legacy fixed penalties. Figures for these other penalties are not provided by age and sex, and comprise a small number of overall COPFS disposals; between 3.8-10.1% (Scottish Government 2014).

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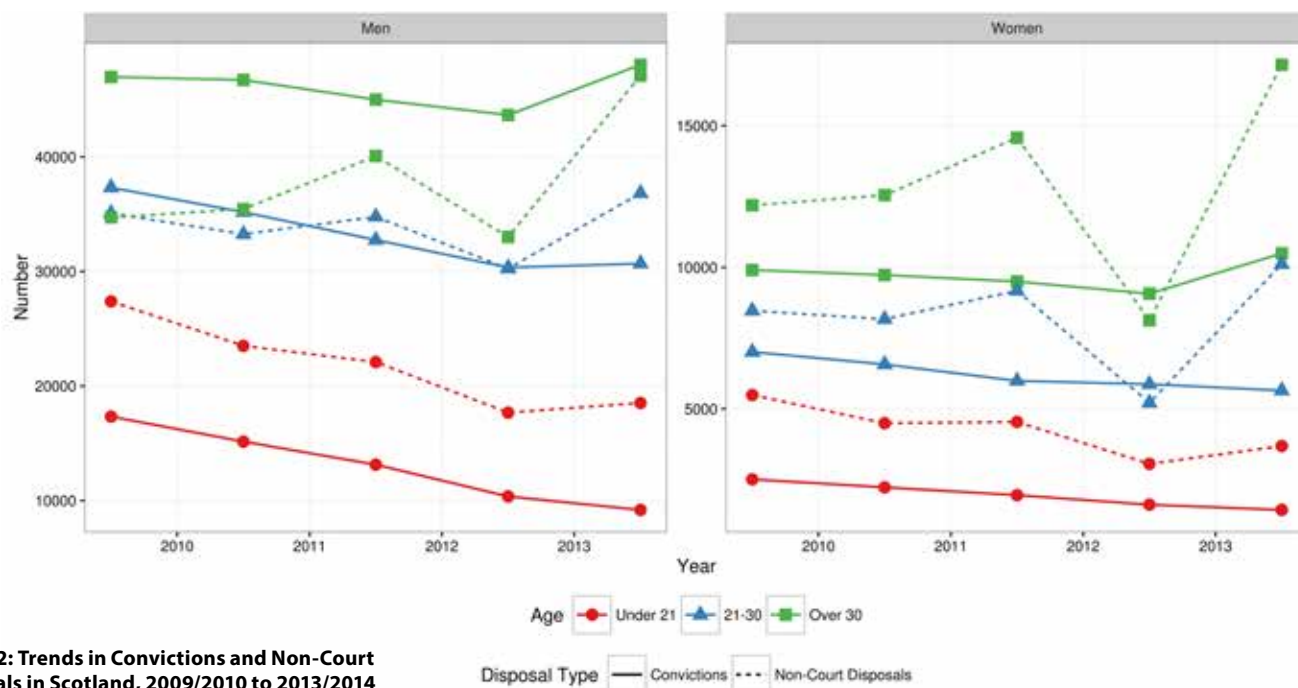


Figure 2: Trends in Convictions and Non-Court Disposals in Scotland, 2009/2010 to 2013/2014